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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,557	08/07/2001	Masami Kato	1232-4748	2892
27123	7590	07/13/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			CHANKONG, DOHM	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/923,557	KATO ET AL.	
	Examiner	Art Unit	
	Dohm Chankong	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-20 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-20 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1> This action is in response to Applicant's request for continued examination, filed 5.8.2006. Claims 1, 15 and 29 are amended. Claims 1-6, 9-20 and 23-30 are presented for further examination.

2> This is a non-final rejection.

Continued Examination Under 37 CFR 1.114

3> A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5.8.2006 has been entered.

Response to Arguments

4> Applicant's arguments with respect to claims 1-6, 9-20 and 23-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5> Claims 1-6, 9-20 and 23-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a. Independent claims state, in part, that there is a processing means for executing an image process [increasing or decreasing intensity of a mosaic or gradation process]. The claims however fail to state what image is the focus of the image process. There is only one image referenced in the claims, that of the taken image of the first user. Thus, according to the language of the claims, only the image of the first user is being processed when *any* of the users is found to not exist.

According to Applicant's specification, however, the image of the user that is found not to exist is image processed and transmitted to the first user. However, as the claims are currently written, only the image of the first user is processed even if the first user is present and other users are not present. Therefore, the claims are not supported by Applicant's specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6> Claims 1-6, 9-20 and 23-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

b. Independent claims state, in part, "...according as the interuser distance determined by said determining means becomes far away...". The terms "far away" is a relative term which renders the claim indefinite. The term "far away" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

c. Independent claims are also rejected for being unclear. The claims state, in part, that there is a processing means for executing an image process [increasing or decreasing intensity of a mosaic or gradation process]. The claims however fail to state what image is the focus of the image process. There is only one image referenced in the claims, that of the taken image of the first user. Thus, according to the language of the claims, only the image of the first user is being processed when *any* of the users is found not to exist.

The claims also state a transmitting means for transmitting the image of the first user to the second user. However, if the second user is found not to exist according to the user presence recognition means, there would be nobody to transmit the taken image of the first user [in a two user system].

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7> To overcome these 112 rejections, the claims should be amended to include subject matter described in Applicant's specification and should clarify the ambiguity currently present in the independent claims to more particularly define the scope of Applicant's invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9> Claims 1, 4-6, 9-15, 18-20 and 23-30 are rejected under 35 U.S.C § 103(a) as being unpatentable over Suzuki et al, U.S Patent No. 5,736,982 ["Suzuki"], in view of Tang et al, U.S Patent No. 6,349,327 ["Tang"].

10> As to claim 1, Suzuki discloses a distributed system having a server device connected with, through a communication network, a plurality of user terminal devices each having means for image-taking means, means for user status recognition and means for displaying, the server comprising:

user presence recognition means for recognizing whether each user exists at his

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terminal [column 6 «lines 50-58» : idle indicates that user is not using his terminal];

first receiving means for receiving status information of a first user including a pictorial image of the first user from a first one of the plurality of user terminal devices [column 2 «lines 30-39» : “requests the other terminals or a server for video images of the other avatars”];

second receiving means for receiving a request of a second user requesting the pictorial image of the first user from a second one of the plurality of user terminal devices [column 2 «lines 30-39» | column 4 «lines 18-56»];

determining means for determining an interuser distance between the first one of the plurality of user terminal devices and the second one of the plurality of user terminal devices based on a predetermined rule [column 5 «lines 18-33» | column 6 «lines 10-21»]; and

transmitting means for transmitting the pictorial image of the first user processed at said processing means to the second one of the plurality of user terminal devices [column 20 «line 4» to column 21 «line 15»].

Suzuki does not expressly disclose processing means for executing an image process as increasing intensity of a mosaic process or a gradation process according as the interuser distance determined by said determining means becomes far away. However Suzuki does disclose processing means for processing the pictorial image of the first user based on the interuser distance determined at said determining means [column 20 «lines 4-31»].

Additionally, Suzuki does disclose utilizing one method of image treatment process for reducing the image quality based on the interuser distance [column 20 «lines 32-53»]. Mosaic and gradation treatments are well known in the art for reducing the quality of an image and

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thus are merely obvious variations of the method utilized by Suzuki. Thus, it would have been obvious to one of ordinary skill in the art to have implemented the mosaic and gradation treatment in Suzuki to reduce the quality of the image.

Suzuki does not disclose processing means decreasing the intensity of the mosaic process or the gradation process when it is recognized by said user presence recognition means that any of the users does not exist.

11> Tang discloses image processing such as visually modifying images when detecting that a user does not exist at a terminal device [column 10 «line 63» to column 11 «line 19»]. Suzuki and Tang do not expressly disclose utilizing mosaic or gradation processing on images. However, mosaic and gradation treatments are well known in the art for reducing the quality of an image and thus are merely obvious variations of the method utilized by Suzuki and Tang. Thus, it would have been obvious to one of ordinary skill in the art to have implemented the mosaic and gradation treatment in Suzuki and Tang to provide a visual means to notify a user of the presence of another user [see Tang, column 11 «lines 10-19»].

12> As to claims 15 and 29, see rejection of claim 1 above.

13> As to claims 4-6, 9-14, 18-20, 23-28 and 30, see previous Office action.

14> Claims 2, 3, 16 and 17 are rejected under 35 U.S.C § 103(a) as being unpatentable over Suzuki in view of Flohr et al, U.S Patent No. 5,534,914 [“Flohr”].

15> As to claims 2, 3, 16 and 17, see previous Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Liles et al, U.S Patent No. 5,880,731;

Tarlton et al, U.S Patent No. 5,923,330;

Cheng, U.S Patent No. 6,396,509;

Megiddo, U.S Patent No. 6,559,863;

Strubbe et al, U.S Patent No. 6,721,706.

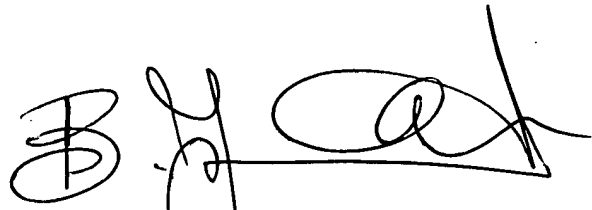
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER